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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,996	12/04/2000	Steven E. Schultz	1247 P 160	6877

7590

10/07/2004

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EXAMINER

STRIMBU, GREGORY J

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/729,996	Applicant(s) SCHULTZ, STEVEN E.	
	Examiner Gregory J. Strimbu	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 32-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 32-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the angled portion for the nose being disposed within the housing when the latch bolt is in the extended position must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson '353 as applied to claims 32 and 35 above. Simpson '353 discloses a tilt latch 40 for a sash window comprising a housing 42 having an outward end opening (not numbered, but seen in figure 4), a latch bolt 44 disposed within the housing, the latch bolt having a nose 81, an actuator 48, an integral post 106 extending from the actuator, the latch bolt having an extended position and a retracted position, and a notch 95 positioned substantially at a mid-portion of the latch bolt, wherein the post is received in the notch and wherein only a portion of the nose extends past the outward end opening when the latch bolt is in the extended position. Simpson '353 is silent concerning the actuator having a notch.

However, it would have been obvious to one of ordinary skill in the art to provide the actuator with the notch 95 and the latch bolt 44 with the integral post 106 since it has been held that mere reversal of the essential working parts of a device involves no more than routine skill in the art. *In re Einstein*, 8 USPQ 167.

Claims 6-10, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson '353 in view of Riegelman. Simpson '353 discloses a tilt

Art Unit: 3634

latch 40 for a sash window comprising a housing 42 having an outward end opening (not numbered, but seen in figure 4), a latch bolt 44 disposed within the housing, the latch bolt having a nose 81, an actuator 48, a post 106 located on one of the latch bolt and the actuator and a notch 95 located on the other of the latch bolt and actuator, the post or notch being positioned such that when the latch bolt is fully extended through the outward end opening, a portion of the nose is positioned within the housing.

Simpson '353 is silent concerning an angled portion of the nose disposed within the housing when the latch bolt is in the extended position and the actuator having a notch.

However, Riegelman discloses a tilt-latch bolt comprising a latch bolt 40 disposed within a housing 32 wherein when the latch bolt is in an extended position an angled portion of the nose is disposed within the housing as shown in figure 2.

It would have been obvious to one of ordinary skill in the art to provide Simpson '353 with an angled portion of the nose disposed within the housing when the latch bolt is in the extended position, as taught by Riegelman, to prevent a flat portion the latch bolt from engaging the master frame as the sash is tilted into the vertical position.

Additionally, it would have been obvious to one of ordinary skill in the art to provide the actuator with the notch 95 and the latch bolt 44 with the integral post 106 since it has been held that mere reversal of the essential working parts of a device involves no more than routine skill in the art. *In re Einstein*, 8 USPQ 167.

Claims 32 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson '353 in view of Riegelman. Simpson '353 discloses a tilt latch 40 for a

Art Unit: 3634

sash window comprising a housing 42 having an outward end opening (not numbered, but seen in figure 4), a latch bolt 44 disposed within the housing, the latch bolt having a nose 81, an actuator 48, a post 106 located on one of the latch bolt and the actuator and a notch 95 located on the other of the latch bolt and actuator, the post or notch being positioned such that when the latch bolt is fully extended through the outward end opening, a portion of the nose is positioned within the housing. Simpson '353 is silent concerning an angled portion of the nose disposed within the housing when the latch bolt is in the extended position and the actuator having a notch.

However, Riegelman discloses a tilt-latch bolt comprising a latch bolt 40 disposed within a housing 32 wherein when the latch bolt is in an extended position an angled portion of the nose is disposed within the housing as shown in figure 2.

It would have been obvious to one of ordinary skill in the art to provide Simpson '353 with an angled portion of the nose disposed within the housing when the latch bolt is in the extended position, as taught by Riegelman, to prevent a flat portion the latch bolt from engaging the master frame as the sash is tilted into the vertical position.

Response to Arguments

Applicant's arguments filed June 14, 2004 have been fully considered but they are not persuasive.

The applicant's arguments concerning claims 6-10 and 32-35 are moot in view of the new grounds of rejection.

Art Unit: 3634

With respect to the applicant's arguments concerning claims 1-5, the examiner respectfully disagrees. First, as noted in the rejection above, the posts 106 are integral with the actuator 48, however, it is well within the abilities of one with ordinary skill in the art to provide the latch bolt 44 with the integral posts and the actuator 48 with the notch 95. This position is supported by the court in *In re Einstein*, 8 USPQ 167. Second, it should be noted that the term "nose" is a very broad term and should not be limited to only an angled portion of a protrusion as argued by the applicant. Simpson '353 clearly discloses a nose 81 comprising the part of the latch bolt 44 extending to the right from the body segment 84 in figure 4. Therefore, only a portion of the nose 81 of Simpson '353 extends beyond the opening in the housing when the latch bolt is in the extended position. Third, the claim language does not specify whether the mid portion is defined with respect to a longitudinal axis of the actuator or the lateral axis of the actuator. Since the notch 95 is positioned in the lateral mid-portion as shown in figure 4, it meets the claimed invention. It is suggested that the applicant amend the claims to recite that it is the longitudinal mid-portion to better define the applicant's invention.

Conclusion

THIS ACTION IS NOT MADE FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

Art Unit: 3634

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gregory J. Stimbu", with a stylized flourish extending from the end.

Gregory J. Stimbu
Primary Examiner
Art Unit 3634
October 1, 2004